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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

J.N., et al.,

Plaintiffs,

v.

OREGON DEPARTMENT OF EDUCATION,
et al.,

Defendants.

Case No. 6:19-CV-00096-AA

JOINT STATUS REPORT

In accordance with the Court's December 20, 2021 order, ECF No. 147, the Parties file this Joint Status Report.

On January 22, 2019, four individual students, on behalf of a class of similarly situated students, and the Council of Parent Attorneys and Advocates, Inc., (collectively, "Plaintiffs") filed a complaint for equitable relief against the Oregon Department of Education, its Director Colt Gill and Governor Katherine Brown (collectively, "Defendants"). (ECF No. 1.)

On April 19, 2019, Defendants filed a motion to dismiss which Plaintiffs opposed. (ECF Nos. 33 and 41.)

On February 3, 2020, Plaintiffs moved to certify a class of: All students with disabilities aged 3 to 21 residing in Oregon who are eligible for special education and related services under the Individuals with Disabilities Education Act ("IDEA") and are currently being subjected to a shortened school day or are at substantial risk of being subjected to a shortened school day due to their disability-related behaviors. (ECF No. 64.) Defendants opposed Plaintiffs' motion for class certification. (ECF No. 93.)

On September 1, 2020, the Court denied Defendants' motion to dismiss. (ECF No. 104.)

On September 29, 2020, Defendants filed their answer to the complaint. (ECF No. 109.)

On January 29, 2021, Plaintiffs moved for partial summary judgment. (ECF No. 119.)

On February 5, 2021, the Court certified the Plaintiff class. (ECF No. 123.)

On February 9, 2021, the Court entered a scheduling order requiring discovery to be completed by June 1, 2021; initial expert witness disclosures due by July 16, 2021; rebuttal expert witness designations and disclosures due by August 30, 2021; expert discovery to be completed by October 15, 2021; and dispositive motions to be filed by December 1, 2021. (ECF No. 125.)

August 1, 2022 Joint Status Report

On March 11, 2021, Defendants responded to the Plaintiffs' motion for partial summary judgment and filed an amended answer removing affirmative defenses at issue in Plaintiffs' motion for summary judgment. (ECF Nos. 131 and 132.)

On June 4, 2021, the Court issued a stay in this matter to allow the Parties to engage in settlement negotiations. (ECF No. 136.) On July 8, 2021, the Court extended the stay. (ECF No. 138.) On August 23, 2021, the Court continued the stay and ordered the Parties to file a joint status report by March 21, 2022. (ECF No. 140.)

On August 16, 2021, the Parties entered into an Interim Settlement Agreement ("Agreement"). Exhibit 1. Pursuant to the terms of the Agreement, the Parties agreed to a two-phased approach to attempt to resolve the Action: (1) fact-finding by a Neutral Expert regarding the use of Shortened School Days for the class and the Neutral Expert's preparation of a report with findings and recommendations ("Phase I"); and (2) negotiation of any appropriate remedies for any identified systemic misuse (if any) of Shortened School Days for the Target Population during a continued settlement conference with Judge Acosta ("Phase II"). Agreement at 2.

On September 22, 2021, the Court withdrew Plaintiffs' motion for partial summary judgment with leave to refile if the case did not settle. (ECF No. 141.)

On October 15, 2021, the Parties selected Dr. David Bateman to serve as the Neutral Expert. The Defendants executed Dr. Bateman's contract on December 3, 2021.

On December 20, 2021, the Court extended the stay through July 31, 2022 and reset the deadline for the joint status report to July 31, 2022. (ECF No. 147.)

Dr. Bateman's contract initially set his report to be due on June 3, 2022. Dr. Bateman subsequently requested an extension of his report deadline to July 1, 2022, and the Parties agreed to this extension. On June 30, 2022, Dr. Bateman provided the Parties with his report. Exhibit 2.

August 1, 2022 Joint Status Report

On July 12, 13, and 18, 2022, the Parties engaged in settlement conferences with the assistance of Judge Acosta. The Parties have not been able to resolve this matter.

The Parties respectfully request that the Court set a status conference to reset pretrial deadlines. The Parties have conferred but have not reached agreement on a proposed schedule.

Plaintiffs propose the following schedule:

Event	Deadline
Supplementation of prior discovery responses	August 26, 2022
Initial expert witness designations and disclosures	September 30, 2022
Rebuttal expert witness designations and disclosures	October 28, 2022
Expert discovery completion	December 2, 2022
Filing of dispositive motions on merits	January 13, 2023

Defendants propose the following schedule:

Event	Deadline
Supplementation of prior discovery responses	September 15, 2022
Initial expert witness designations and disclosures	October 31, 2022
Rebuttal expert witness designations and disclosures	December 15, 2022
Expert discovery completion	January 30, 2023
Filing of dispositive motions on merits	March 16, 2023

RESPECTFULLY SUBMITTED this 1st day of August 2022

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